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Filed : August 24, 1999

REMARKS

With this Amendment, Claims 3 and 41-52 are pending in the present application, and Claims 41, 45 and 52 are amended. Applicant notes that the Office Action lists only Claims 41-52 as pending, yet Applicant respectfully submits that Claim 3 has not been cancelled from the present application, and is therefore also still pending.

Objections to the Drawings

The Examiner objected to the drawings, stating that the drawings do not show, "an outer portion of said first bottom surface and an outer portion of said second bottom surface" as recited in Claim 42. Applicant respectfully submits that the drawings as currently presented do, in fact, show all of the features recited in the claims including "an outer portion of said first bottom surface and an outer portion of said second bottom surface." Applicant respectfully submits that the Examiner's objection to the drawings stems from an unduly narrow interpretation of the terms "first bottom surface" and "second bottom surface," as will be further discussed below with regard to the rejections under 35 U.S.C. § 112, second paragraph.

As mentioned in Applicant's previous response, filed April 1, 2003, Figure 6 (as well as other figures of the present application) already shows the claim features in question. Thus, Applicant maintains that no amendments to the drawings are necessitated.

Objections to the Drawings

The Examiner also objected to Claim 42, and suggested an amendment to correct an apparent discrepancy. Applicant respectfully submits that the suggested amendment would unduly limit the claim in a way that Applicant does not intend. Applicant believes that this objection also stems from an overly narrow interpretation of the terms "first bottom surface" and "second bottom surface" as discussed below.

Discussion of Indefiniteness Rejections under 35 U.S.C. § 112

Claims 41-52 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. With respect to Claim 45, the Examiner asserts that "it is unclear what constitutes 'a first bottom surface' and 'a second bottom surface' because there are two bottom surfaces on each of the rails (72)," (see page 3, second paragraph of the Office Action). Applicant

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respectfully submits that the Examiner has improperly mistaken the breadth of Claim 45 for indefiniteness (see M.P.E.P. §2173.04 and cases therein).

Claim 45 recites *inter alia*, "said first raised rail comprising...a first bottom surface," and "said second raised rail comprising...a second bottom surface." In the embodiments illustrated in Figures 6 and 9 of the present application (as the pointed out by the Examiner), the tie down surface (78) has a bottom surface, and an outer portion of each rail (72) has a bottom surface. Applicant respectfully submits that there is nothing indefinite in reading the limitation of "a first bottom surface" to simultaneously include *both* of the surfaces identified by the Examiner, namely the bottom surface of the outside portion of the rail *and* the bottom surface of the tie down surface, since both of these surfaces can accurately be described as belonging to either the first or second raised rail. Applicant submits that Claim 45 is sufficiently broad to support the above interpretation as well as others, and this breadth does not, in itself, make the claim any less definite.

Applicant respectfully submits that the apparent mistake appears to arise from attempts to read limitations of the figures into the claims. The rule of 37 C.F.R. § 1.83 merely requires that the drawings show every feature recited in the claims. The rule does *not* require that every feature of the drawings be recited in the Claims. Clearly, this would unduly limit the claim scope to which the Applicant is entitled, since the figures merely illustrate exemplary embodiments and are not intended to define the scope of the invention in any limiting manner. Applicant respectfully submits that the Examiner's assertion that Claim 45 is indefinite because some of the figures show "two bottom surfaces on each of the rails (72)," is an improper attempt to read features of the figures into the claims, and is therefore not a proper basis for a rejection under 35 U.S.C. § 112, second paragraph.

The Examiner also asserted, "with respect to lines 17-20 [of Claim 45], the claim appears to be misdescriptive and/or inaccurate because the first outside flange 122 and the first inside flange 128 both cannot be extended around the same first bottom surface." Here again, the Examiner is attempting to read features of the figures into the claims. Applicant submits that there is no limitation in Claim 45 that prevents the first outside flange 122 and the first inside flange 128 from both being extended around the same first bottom surface.

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Applicant respectfully submits that Claim 45 is clear and definite, and its scope would be readily apparent to a person having ordinary skill in the art.

Applicant respectfully notes that the Office Action does not provide any rationale for the rejection of Claims 41-44 under 35 U.S.C. § 112, second paragraph. However, Applicant assumes that the rejection stems from the same overly narrow interpretation discussed above; namely mistaking the breadth of Claim 41 for indefiniteness and attempting to read features of the figures into the claims. Applicant respectfully submits that Claim 41 is also clear and definite in its present form, and its scope would be readily apparent to a person having ordinary skill in the art. Applicant therefore respectfully requests that the rejections of Claims 41-52 be withdrawn.

The Examiner also pointed out that Claim 52 appears as though it should be dependent on Claim 41. Applicant agrees with the Examiner on this matter, and Applicant has corrected the apparent error by amending Claim 52 to depend from Claim 41.

Discussion of New Matter Rejections under 35 U.S.C. § 112

The Examiner also rejected Claims 41 and 45 under 35 U.S.C. § 112, first paragraph, stating that the limitations reciting "a distance less than twice the thickness..." which were added in Applicant's previous Amendment (filed April 1, 2003), are considered to be new matter. Applicant respectfully disagrees with the Examiner's characterization of these limitations as new matter. Applicant submits that the Examiner's characterization stems from the unduly narrow interpretation of the term, "bottom surface" as discussed above. Nonetheless, Applicant has amended Claims 41 and 45 to remove the limitations objected to by the Examiner.

Examiner's Response to Applicant's Arguments

With reference to Applicant's arguments on page 7 of the previous amendment (filed April 1, 2003), the Examiner requested that Applicant specifically point out certain features in the drawing because the Examiner could not determine which element on the drawing is considered to be "an outer portion." Applicant respectfully submits that, in one reading, the limitation "an outer portion of said first bottom surface" (as recited in Claim 42) can be read on the portion of the rail 72 that is surrounded by element 118 in Figure 9. Applicant notes,

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however, that this is only one of many possible readings of this limitation of Claim 42 and should not be interpreted as limiting the scope of Claim 42.

Allowable Subject Matter

Applicant notes with appreciation the Examiner's indication that Claims 41-52 would be allowable if rewritten to overcome the rejections under 35 U.S.C. § 112, second paragraph. In view of the above remarks, Applicant respectfully submits that Claims 41-52 are clear and definite in their present form. Thus, in the absence of any further rejections, Applicant respectfully submits that Claims 3 and 41-52 are in condition for allowance.

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CONCLUSION

Applicant notes that in the discussion above, certain readings or interpretations of some specific claim limitations are suggested. Of course, these readings are not the only possible readings of those limitations, and should not be interpreted as limiting the scope of the claim terms discussed, the claims discussed, or any other claims or claim terms in the present application. The above examples are provided merely for the purpose of illustrating that a person having ordinary skill in the art can reasonably determine the scope of the claims as they are currently presented.

In view of the foregoing, Applicant submits that the claims of the present application are in condition for allowance, and Applicant respectfully requests that the present application be passed to allowance at the earliest possible date. The undersigned has made a good faith effort to respond to all of the rejections and objections in the present application and to place the claims into condition for allowance. Nevertheless, if any issues remain which can be resolved by telephone, the Examiner is respectfully requested to call Applicant's representative at the number indicated below in order to resolve such issues promptly.

Respectfully submitted,

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Dated: 10/29/03

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